

Russia against History. Revision and Punishment

The present report provides an overview of State interferences in the freedom of expression in cases related to the interpretation and assessment of historical events, including denial of access to historical archives. Our monitoring of various open sources, such as official statistics, publications in mass media and in social networks, as well as communications from NGO, has provided the factual basis for this report.

We believe it is important to stress that the report does not attempt to adjudicate on the historical righteousness or scientific foundation of the disputed views or statements, but merely examines the legal aspects of the presented cases as far as their authors and disseminators are concerned, and of the prohibitions of certain publications for the purported purpose of combating extremism.

A full list of the recorded cases, including details of the source of information, date, region and type of interference, is provided in the Annex. Overall, our monitoring captures 100 individual episodes, including criminal prosecutions, administrative measures, concealment of archived documents by the authorities, restrictive regulations, and the most widespread form of interference, namely prohibition of information materials for what the authorities describe as an effort to combat extremism.

Evidently, most of the cases relate to the 20th century and the most risky topics are the Second World War (WWII) and the role of the USSR in it. More often than not, it may also turn out usage of certain symbols (e.g. swastikas or so called ‘Saint George’s ribbon’), even in contemporary context, is not quite safe.

Imposition of sacredness over the Soviet Union’s victory in the Great Patriotic War, punishment for the ‘defamation’ and ‘profanation’ of memorial dates and symbols, curbing any assessments of historical events and persons which diverge from the official ones, prohibition of scientific publications, proscription of archived documents as extremist materials, and persecution of historians – all come under the overarching tendency towards restriction of freedom of speech observed in Russia over the recent years.

The increasingly intense persecution of freely expressed views on history and of the use of historical analogies in debates on societal and political issues of our time has been paralleled with the imposition of more rigid legislation, and by a *de facto* monopolization by the State of the interpretation of key historical events which have been used as propagandistic tools.

The Standardization of History

The abandonment of a single historical doctrine seemed a perfectly natural development following the crash of the communist regimes in Eastern Europe and the disintegration of the Soviet Union. At a more fundamental level, historians discarded the Marxist-Leninist construct of historical processes and the class-based approach to the various historic events. These developments, which concerned first and foremost the latest period of Russian history, occurred not only in academic discussions, but also appeared to have been set in stone by legislators.

The preamble of the 1991 Rehabilitation of Victims of Political Repression Act contains language such as: ‘In the years of Soviet rule, millions became victims of lawlessness exerted by the totalitarian State, suffered repression on account of their political or religious beliefs, or on social, national or other grounds. Condemning the multiannual terror and mass persecution against the own people as being incompatible with the ideas of law and justice, the Federal Assembly of the Russian Federation expresses deepest compassion to the victims of unjust repressions, to their families and loved ones, and declares its staunch resolve to put in place proper guarantees of lawfulness and human rights’.

In 2010 the Duma adopted a [statement](#) titled ‘Concerning the Katyn tragedy and its victims’, which says: ‘Seventy years ago, thousands of Polish citizens, held in P.O.W. camps of the NKVD [People's Commissariat for Internal Affairs] of the USSR and in prisons in the western regions of the Soviet Republics of Ukraine and Byelorussia, were shot dead. The official Soviet propaganda laid the responsibility for this malignant act, which became collectively known as ‘Katyn tragedy’, on Nazi criminals... Materials published after being kept for many years in secret files not only reveal the scale of this horrible tragedy, but demonstrate that the Katyn crime was committed on direct orders from Stalin and other Soviet leaders’. In the same year the Federal Agency of Archives (Rosarkhiv) [published](#) some Katyn materials, and a large volume of documents, such as reports on the transfer of Polish soldiers to NKVD camps, lists of P.O.W., transcripts of interrogations, death certificates and burial records, were [transmitted](#) to Poland.

In 2017 however, Vladimir Putin [said](#) in an interview with Oliver Stone that ‘unnecessary demonization of Stalin is one of the methods, one of the pathways to attack the Soviet Union and Russia’. Just half an year later the Russian Ministry of Culture [withdrew](#) the screen license for the motion picture ‘The Death of Stalin’, an English-French satire of top Soviet politicians, explaining this factual prohibition with the assertion that the public ‘may perceive it as an insulting mockery of the entire Soviet past’.

The authorities have also used compassion for the public insulted by ‘blackening of the past’ in order to achieve local political goals. On 27 January 2014, an important anniversary of the lifting of the Nazi blockade of Leningrad, the TV channel ‘Rain’ (Дождь) posted on its website a poll asking the viewers whether it would have been better to surrender Leningrad in order to avoid thousands of deaths. This prompted an [investigation](#) by Prosecution Service of Saint-Petersburg into ‘whether the TV channel has crossed all permissible boundaries’. Meanwhile the city legislature [called upon](#) the Prosecutor General to shut down the channel, and leading operators of satellite, cable and web broadcasting systems such as NTV+, Akado, Dom.ru and Beeline excluded TV Rain from their packages. In the aftermath, the main Russian independent TV-channel was knocked down so badly that it has not been able to make a full recovery yet.

The State made its first systematic attempts to control the cultural environment under the pretext of protecting the historical past during the presidency of Dmitry Medvedev, who established, with a special [decree](#), a *Commission For the Countering of Attempts to Falsify History to the Detriment of Russian Interests*. The special status of the Commission as an arm of the President of the Russian Federation demonstrated the significance attributed to the issue. The stated objective of the Commission was to *ensure coordination among State authorities and organisations for the purpose of countering the attempts to falsify history in a manner detrimental to Russian interests*, that is attempts to undermine the country’s international prestige. Members of the Commission were representatives of the President’s Administration, the Ministries for Education, Justice, Culture and Foreign Affairs, the Foreign Intelligence Service, the Federal Security Service and academic institutions, as well as the Director General of VGTRK, the flagship state-owned media holding of Russia. Professional historians were essentially absent from the Commission.

At one of its first meetings, the Chairperson of the Commission Sergey Naryshkin (at that time head of the President’s Administration, now chief of the Foreign Intelligence Service) said that the objective of the ‘revisionists’, of which the Commission should counteract, was to revise the geopolitical outcome of WWII and create an ideological basis for launching political, financial and territorial claims to Russia.

In addition to drawing up reports and recommendations, the Commission was entitled to obtain documents and information from various authorities and organisations. Thus, the Department of History and Philology of the Russian Academy of Sciences (RAS) [ordered](#) its divisions to submit, within a deadline of three days, a list of falsifications of history and culture, including an assessment of their potential threat to national interests and a report on how these institutions unmask falsifications and historical or cultural concepts which are prejudicial to Russia.

Andrey Petrov, a senior RAS executive, [remarked](#) in his comments to certain media publications that the list of falsifiers and falsifications can be a very useful resource for scholars, authorities and educators.

In 2013 Vladimir Putin [said](#) it was not normal to have as many as 65 approved versions of history textbooks and complained about the lack of an official assessment of historic events.

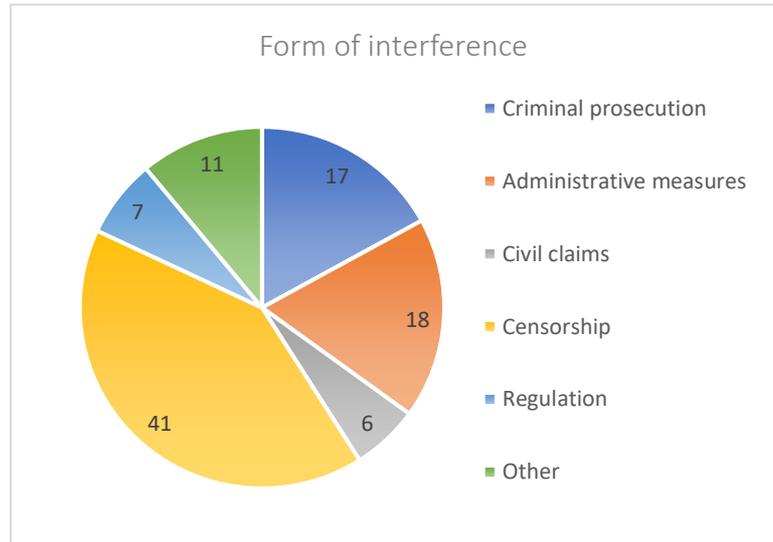
Although the Ministry of Education later rejected speculations that a unified history textbook is in the making, in 2013–2015 a standardized line of history textbooks was created, and the Russian Historical Society developed an umbrella concept of how history should be taught, including topics such as ‘State programmes for the demographic rebirth of Russia’, ‘The foreign-policy course under V.V. Putin. Gradual recovery of Russia’s leading role in international relations’ and ‘The modern concept of Russia’s foreign policy in a world of multiple poles’.

The assertion of a single understanding of the national history was matched by the marginalization of historical views, studies and materials which did not fit in the official standard. Protection of ‘historic values’ became a pretext for the persecution of civil-society activists and political opponents. The main vehicle of these efforts of course was anti-extremist legislation.

Beyond the Mainstream

We identified at least 100 individual interferences in the freedom of expression which contained some form of historical element. The larger part (41 cases) consisted in the prohibition of books or web publications and their inclusion in the Federal List of Extremist Materials.

Statements or assessments of historic events may also trigger various form of liability (administrative, criminal or civil), both on their own merits and as a formal reason to initiate persecution of citizens or organisations considered to be in the ‘risk zone’ by virtue of their activity.



Criminal prosecution

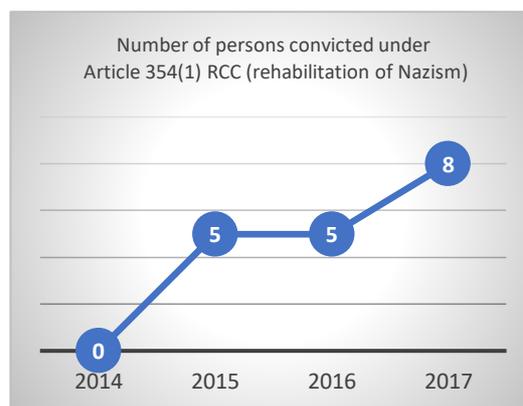
Our monitoring identified 17 cases of criminal prosecution against citizens for expressing views on historical matters. While one criminal file was closed due to expiry of the limitation period, in the other 16 cases the defendants were found guilty of perpetrating various crimes.

In April 2009, the Naberezhnye Chelny City Court in **Tatarstan** sentenced Rafis Kashapov, head of the City branch of the Tatar Community Centre, to 18 months of suspended imprisonment under Article 282 of the Russian Criminal Code (RCC). The Tatar activist was charged of incitement of hatred in several social-media publications whereby he referred to the forceful conversion of Muslims to Christianity, criticized Moscow’s chauvinist policy to ethnic minorities and described the Tatar-Mongolian yoke as a ‘monstrous myth of the State’. Following the conviction, the Tatar Community Centre, founded by Kashapov, was proscribed an extremist organisation and the activist himself was forced to leave the country, but not before serving a three-year term in jail on a conviction for criticizing violations of the rights of Crimean Tatars following the annexation of Crimea.

In the same year criminal proceedings were [initiated](#) in **Archangelsk** against Prof. Mikhail Suprun, head of the National History Department of Pomor University, while he was working on a ‘Book of Memory’. Suprun intended to describe the fate of several thousand Volga Germans resettled in Archangelsk

region during WWII. Alexander Dudarev, Chief of the Information Centre of the local police department assisted him. Suprun and Dudarev were charged with breach of privacy (Article 138 RCC) and with acting beyond his official powers (Article 285 RCC) respectively. In 2011 the case of the historian Suprun was closed due to expiration of the limitation period for criminal liability, but the police colonel was given a suspended sentence of one year imprisonment.

A new provision added in 2014 to the RCC specifically outlawed the rehabilitation of Nazism. As seen from the ensuing case-law, Article 354(1) RCC has been applied equally to clearly offensive expressions with use of Nazi symbols and to simple reflections on the Soviet Union's role in WWII or reminders of the close collaboration between Stalin's USSR and Hitler's Reich. While no verdicts were delivered in 2014, eight persons were sentenced in 2017.



Vladimir Luzgin, a citizen of **Perm**, was found guilty in rehabilitation of Nazism and ordered to pay a fine of 200,000 Rubles. Luzgin incurred this criminal liability for reposting in his VK (ВКонтакте) profile an article titled '15 Facts on Banderovites or What Kremlin Keeps Silent About'. The article discussed, among other things, the joint USSR-Germany incursion into Poland in 1939 and how WWII unfolded.

A citizen of **Ulan-Ude** was sentenced to 300 hours of public service for rehabilitation of Nazism. Among the materials imputed on him was an image of a Third Reich medal with an inscription 'We remember! We are proud!', another image of a Third Reich military banner which read 'I do not need your ribbon! I have one of my own' accompanied with a black ribbon and an 'Adolf Hitler' inscription in the background, and another portrait of Adolf Hitler dubbed 'I [don't care] whoever in your family fought in the war'. According to the court's verdict, the above-mentioned materials express 'positive sentiments to the acts of Nazi Reich, 'disdain for the 9th of May' and 'support for Nazism by contrasting Saint George's Ribbon to the flag of Nazi Reich'.

The authorities in **Magadan** [launched](#) criminal proceedings against the scholar Igor Dorogoy for a few posts published in the social network *Odnoklassniki* where he used strong language in respect of prominent figures of the October Revolution and WWII. Dorogoy described Tukhachevsky as a 'hangman', Zhukov as a 'plunderer', and Rudenko (the USSR representative in the Nuremberg Tribunal) a 'wetwork man'.

At time the Russian authorities try to imply ‘historical’ context in doings which apparently have nothing to do with the interpretation of past events. Thus, in the criminal case against Pyotr Pavlensky, and action artist who set on fire the door of the FSB (Federal Security Service) building at Lubyanskaya Square in **Moscow** (‘Menace’ artistic action), the initial charges came under Article 214 RCC (vandalism motivated by political hatred), but later the charges were changed to ‘destruction of or damage to cultural heritage or cultural valuables’ (Article 243 RCC). The investigative authorities [pointed out](#) in their explanations that the FSB building was part of the cultural heritage because in the 1930’s ‘prominent statesmen, public figures and cultural luminaries were held in custody there’.

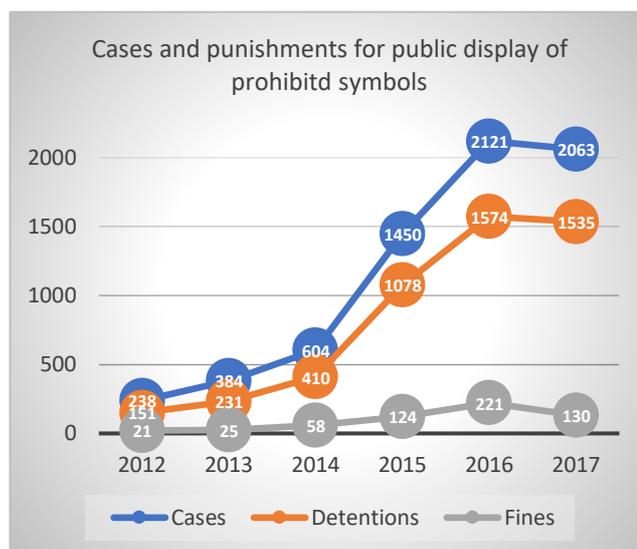
In May 2017 the authorities in **Volgograd** [initiated](#) criminal proceedings against Alexey Volkov, a coordinator of an anticorruption fund. Likewise, the initial charges were for rehabilitation of Nazism in the form of several collages in social media where the head of the Motherland Statue was painted in green. That reference to the attacks of members of pseudo-militant formations using green dye on opposition and civil-society groups was later considered by the investigative authorities as profanation of the symbol of Russian military glory.

Many attempts have been made to impose criminal liability for insulting the sentiments of war veterans. For example, the Communist Party of Russia [brought](#) a bill to this effect in September 2016 proposing fines as high as 3 million roubles for acts in public which constitute straightforward disrespect to society and aim to insult the sentiments of veterans of the Great Patriotic War by intentional distortion of information about WWII, depreciation or underestimation of the heroism of USSR servicemen, or dismantling/damaging monuments related to the Great Patriotic War, especially when committed on the 9th of May.

In 2017, the Chechen parliament acted on a proposal of Ramzan Kadyrov and drafted a bill which imputes liability for distorting the history of the Great Patriotic War or for negating the decisive role of the USSR for the victorious outcome of WWII.

Administrative measures

The most popular provision in this respect is Article 20.3 of the Code of Administrative Offenses (CoAO): ‘propaganda or display in public of Nazi attributes or symbols, or of attributes or symbols of extremists organisations, the propaganda and public display of which is prohibited by federal laws’. In recent years we have observed an intense use of this article: since 2012 the number of cases has risen almost nine-fold while detentions have increased tenfold. Thus, on a national basis 6,622 persons have been punished in the last five years, which makes more than one hundred per month. Our monitoring focused on 18 cases of this type.



Among the main drivers of this steep rise was certainly the amendment introduced in the CoAO in 2014. Until then, the *corpus delicti* of that offense included two cumulative components: *propaganda* and *display* of the prohibited symbol in public. Following the 2014 amendment, the presence of only one of these components is sufficient for the doer to incur liability, i.e. a choice of some degree has been afforded.

That approach was upheld by the Russian Constitutional Court as it refused to examine a complaint against that provision: ‘*per se*, the use of Nazi attributes (symbols) as well as of attributes (symbols) which are similar enough to be confused with Nazi ones, regardless of their origins, can cause sufferings to people whose family members perished in the Great Patriotic War – which implies that the legislator is entitled to adopt measures in accordance with Article 55(3) of the Constitution of the Russian Federation’. This unleashed a massive hunt for swastika symbols in the internet.

The prosecution service of **Yuzhno-Sakhalinsk** [initiated](#) administrative proceedings under Article 20.3(2) CoAO against the owner of a bookstore which sold a historical study titled ‘Soldiers of the Wehrmacht’, because the prosecutors found a swastika on the cover of the book.

There have been success stories, too. The **Archangelsk** Regional Court [acquitted](#) the activist Mikhail Listov, who was previously ordered to pay 1 000 roubles in fine for publishing a historical photograph of the Victorious Parade in 1945 which featured a swastika. The District Court of **Pskov** acquitted

Andrey Egorov, a member of Alexey Navalny's staff, who was arrested for publishing in VK a historical photograph with a swastika.

In passing, other administrative fines imposed in similar circumstances were left in force, e.g. in the cases of Polina Danilevich, a journalist in **Smolensk** who [posted](#) in VK a photograph of her home during the German occupation, and Julia Usach of **Krasnodar** who [published](#) Soviet wartime cartoons.

We will note that by way of additional punishment Article 20.3 CoAO requires confiscation of the objects involved in the administrative offense, which, according to the [position](#) of the Russian Supreme Court, may include computers.

Censorship

In the context of this report, what we mean by *censorship* is mostly prohibition of publications (as a general rule, under the pretext of countering extremism) followed by the inclusion of these publications in the Federal List of Extremist Materials maintained by the Ministry of Justice, as well as various forms of administrative pressure exerted on researchers, historians and citizens.

Thus, a court in **Bryansk** [proscribed](#) as extremist several publications of the German historian Sebastian Stopper, a Humboldt University professor who specialises in research on guerrilla movement in the area of Bryansk during the Great Patriotic War. Based on his research, in 2012 Stopper even defended a doctoral thesis on 'The German occupational authorities in Bryansk Region 1941–1943', and actively published in social media the results of his investigations. More precisely, Stopper published in Living Journal his translations of archived German documents, which, in the prosecutor's opinion, 'diminish the significance of guerrilla operations in Bryansk area and provide a negative depiction of guerrillas and their activities'. In the ruling which proscribed the materials as extremist ones, the court cited conclusions of local experts, according to which 'the provision of such information can install in the readers negative perceptions in respect of social ideals and moral values (heroism of ancestors, respect to guerrilla veterans and their soldierly merits), existing in modern society, to the history of the Great Patriotic War in general and guerrilla movement in the Bryansk area in particular, it has a negative impact on public and individual mindsets and world views, on the formation of socio-cultural identity in young people and on the maintenance of this identity in the older generations'.

As regards Stopper, after several years of successful collaboration with historians in Bryansk he had to wind up his work and leave Russia for fear of criminal prosecution.

The doctoral title was the [price](#) which Kiril Alexandrov, a St. Petersburg historian, had to pay for his research into the reasons that underpinned collaboration of Soviet POWs and emigrants with the Nazi. On the eve of the hearing in which Alexandrov had to defend his doctoral thesis, Nikolay Smirnov, Director of the Saint-Petersburg Institute of History under the Russian Academy of Science, was ordered to appear at the prosecution service, and the decision by which the Dissertation Panel awarded a doctoral title to Alexandrov was [invalidated](#) by an order of the Deputy Minister for Education. Soon after that Alexandrov's Article 'Bandera and Banderovites', published in Novaya Gazeta already in 2014, was proscribed as an extremist material and entered in the Federal List of the Ministry of Justice.

The Federal List of Extremist Materials was introduced more than 10 years ago. All in all, at the date of this writing it includes dozens of historical studies and publications on various issues of the past such as the study of the historian A.V Okorkov on 'Fascism and Russian emigrants (1920–1945)', the book of K.A. Zalesskiy and P. Hausser 'Hitler's black guard. Waffen-SS', the books 'The Zionist Factor. Jewish impact on 20th century history' by A. Benson, 'The Holocaust Myth. The truth about the fate of Jews in WWII' by Y. Graf, 'Hitler's talks around the table' by G. Pikker and a whole range of books and brochures dedicated to the Organisation of Ukrainian Nationalists, the Ukrainian Insurgent Army and Stepan Bandera, including collections of documents.

The International Standards

Freedom of expression, in the way it is guaranteed by Article 19 of the International Covenant on Civil and Political Rights and Article 10 of the European Convention on Human Rights, unquestionably includes the right to discuss issues of history. The case-law of the European Court of Human Rights (ECHR) in the past two decades has outlined several principles, which are key to defining the boundaries of that freedom.

Thus, in *Chauvy and Others v. France*, No. 64915/01, the ECHR held that it is an integral part of freedom of expression to seek historical truth and it is not the Court's role to arbitrate the underlying historical issues, which are part of a continuing debate between historians that shapes opinion as to the events which took place and their interpretation.

Similarly, in *Perinçek v. Switzerland*, No. 27510/08 the ECHR Grand Chamber refused to examine the question of whether genocide against Armenian people took place or not, and whether the applicant, a Turkish political activist, denied the existence of genocide.

Furthermore, denial or revision of certain historical facts, such as the Holocaust, has been recognised as an abuse of the freedom of expression and accordingly excluded from the protection afforded by Article 10 of the Convention. In *Perinçek* the ECHR made a specific distinction between that case and other Holocaust-denial cases in which breaches of the Convention have not been found: ‘For the Court, the justification for making its denial a criminal offence lies not so much in that it is a clearly established historical fact but in that, in view of the historical context in the States concerned – [...] Austria, Belgium, Germany and France [...] – its denial, even if dressed up as impartial historical research, must invariably be seen as connoting an antidemocratic ideology and anti-Semitism. Holocaust denial is thus doubly dangerous, especially in States which have experienced the Nazi horrors, and which may be regarded as having a special moral responsibility to distance themselves from the mass atrocities that they have perpetrated or abetted’.

The ECHR has ruled similarly in *Lehideux and Isorni v. France*, No. 24662/94, *W.P. and Others v. Poland*, No. 42264/98, and in *Pavel Ivanov v. Russia*, No. 35222/04.

An important criterion according to the ECHR is also the time elapsed from the events in question, therefore, it is inappropriate to apply equally strict standards to recent events and to ones that took place hundreds of years ago in so far as the assessment and discussion of the latter is only of historical interest and would not disturb the feelings of immediate participants in the events.

In addition to the duty to respect the right of historical expression, each State has the positive obligation to ensure that its own history is discussed in an open and unbiased manner (*Monnat v. Switzerland*, No. 73604/10). This obligation includes, *inter alia*, making original documentary sources available for the purposes of legitimate research into history (*Kenedi v. Hungary*, No. 31475/05). In the latter case, the ECHR established a violation of the right of a Hungarian historian (expert in the functioning of the secret services during the communist dictatorship) in that he was refused access to classified documents of the Interior Ministry.

Summary

On 12 March 2014 the Interministerial Commission for the protection of secrets of the State adopted Conclusion 2-c ‘Concerning the prolongation of the classification period for information, which constitutes secret of State and has been classified by the KGB in 1917–1991’, whereby the classification period of a whole range of documents related to USSR State Security services was extended until 2044. As a result, materials such as those related to mass repressions, have become inaccessible not only to researchers, but to the

families of repressed persons. Efforts for challenging this conclusion in court have been unsuccessful.

Thus, the inaccessibility of historical documents, combined with a *de facto* prohibition of the assessment of certain historical facts, the persecution of historians, publicists, bloggers and civil society activists, with the courts in the background demonstrating full solidarity with the decisions of the special agencies, have set the context in which contemporary Russia lives.

We are convinced that in an open and pluralistic society the publication of different views of historical events, including ones that are clearly unfounded or unscientific, does not prejudice public interests inasmuch as it does not disrupt scientifically sound and well-founded research. The value of these materials can be challenged in an open discussion, which historical science can only benefit from.

Conversely, the exploitation of history by authoritarian regimes for the sake of their political interests can only lead to a simplified, distorted and uniformed understanding of history. This creates a distinction between ‘true’ and ‘false’, which easily translates into punishment for ‘false’ views and non-canonical interpretation of historical facts.

Nevertheless, there are no indications that Russian courts, police, prosecutors and investigative authorities are prepared to take into account and apply in practice the internationally recognised principles of freedom of historical discussion. Therefore, one can expect even more criminal prosecutions and administrative detentions, and further expansion of the list of prohibited works. History is becoming a dangerous science.



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The International Human Rights Group AGORA brings together several dozen lawyers from different countries specializing in legal protection of civil liberties in the post-Soviet space.